

Dedicated to Outstanding Customer Service for a Better Community

S E R V I C E S O L U T I O N S S U C C E S S



DEPARTMENT: City Development Department
AGENDA DATE: Introduction 7/30/13; Public Hearing 8/6/13
CONTACT PERSON/PHONE: Nelson Ortiz, 541-4931
DISTRICT(S) AFFECTED: 2

SUBJECT:

An ordinance vacating a portion of Elm Street Right-of-Way, adjacent to Block 126, Highland Park Addition, City of El Paso, El Paso County, Texas.

BACKGROUND / DISCUSSION:

N/A

PRIOR COUNCIL ACTION:

N/A

AMOUNT AND SOURCE OF FUNDING:

N/A

BOARD / COMMISSION ACTION:

Development Coordinating Committee (DCC) – Approval
City Plan Commission (CPC) – Approval

*****REQUIRED AUTHORIZATION*****

LEGAL: (if required) N/A

FINANCE: (if required) N/A

DEPARTMENT HEAD: Mathew McElroy, Director
City Development Department

APPROVED FOR AGENDA:

CITY MANAGER: _____

DATE: _____

Mayor

Oscar Leaser

City Council

District 1

Ann Morgan Lilly

District 2

Larry Romero

District 3

Emma Acosta

District 4

Carl L. Robinson

District 5

Dr. Michiel R. Noe

District 6

Eddie Holguin Jr.

District 7

Lilia B. Limon

District 8

Cortney C. Niland

City Manager

Joyce A. Wilson

City Development Department

222 S. Campbell | P.O. Box 1890 | El Paso, Texas 79950-1890 | (915) 541-4622

ORDINANCE NO. _____

**AN ORDINANCE VACATING A PORTION OF ELM STREET RIGHT-OF-WAY,
ADJACENT TO BLOCK 126, HIGHLAND PARK ADDITION, CITY OF EL PASO, EL
PASO COUNTY, TEXAS**

WHEREAS, the abutting property owner of the northern portion of Lots 31 and 32 has requested vacation of a parcel of land being a portion of Elm Street Right-of-Way, adjacent to Block 126, Highland Park Addition, City of El Paso, El Paso County, Texas; and,

WHEREAS, after public hearing the City Plan Commission recommended that a portion of Elm Street Right-of-Way, adjacent to Block 126, Highland Park Addition, City of El Paso, El Paso County, Texas, should be vacated and the City Council finds that said portion of right-of-way is not needed for public use and should be vacated as recommended;

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE
CITY OF EL PASO:**

That a determination has been made that it is in the best interest of the public that a portion of Elm Street Right-of-Way, adjacent to Block 126, Highland Park Addition, City of El Paso, El Paso County, Texas, and which is more fully described in the attached metes and bounds description, identified as Exhibit "A" and in the attached survey identified as Exhibit "B" and made a part hereof by reference.

In addition, the City Manager is authorized to sign an instrument quitclaiming all of the City's right, title and interest in and to such vacated property to **Carlos and Maria Hernandez**.

PASSED AND APPROVED this _____ day of _____, 2013.

THE CITY OF EL PASO

Oscar Leeser
Mayor

(Signatures continued on following page)

ATTEST:

Richarda Duffy Momsen
City Clerk

APPROVED AS TO CONTENT:

Cl McElroy
Mathew McElroy, Director
City Development Department

APPROVED AS TO FORM:

Lauren Ferris
Lauren Ferris
Assistant City Attorney

(Quitclaim Deed on following page)

Notice of Confidentiality Rights: If you are a natural person, you may remove and/or strike any of the following information from this instrument before it is filed for record in the public records:
Your social security number or your driver's license number.

QUITCLAIM DEED

STATE OF TEXAS)
)
COUNTY OF EL PASO) **KNOW ALL MEN BY THESE PRESENTS:**

The City of El Paso ("Grantor"), for adequate consideration to Grantor in hand paid and agreed to be performed by Carlos and Maria Hernandez ("Grantee"), has GRANTED, SOLD and CONVEYED and by these presents does hereby GRANT, SELL AND CONVEY unto Carlos and Maria Hernandez certain "Property" which was vacated, closed, and abandoned by Ordinance No. _____, passed and approved by the City Council of the City of El Paso and described as **a portion of Elm Street Right-of-Way, adjacent to Block 126, Highland Park Addition, City of El Paso** situated in the County of El Paso, State of Texas, more fully described in the attached metes and bounds description, identified as Exhibit "A," and in the attached survey identified as Exhibit "B" and incorporated herein for any and all purposes.

This conveyance is subject to the following (all references to recorded instruments pertain to the Real Property Records of El Paso County, Texas):

1. Restrictive covenants of Public Record.
2. Any discrepancies, conflicts, or shortages in area or boundary lines, or any encroachments or protrusions, or any overlapping of improvements.
3. Any existing utility easements including easements for the overhang of service wires, conduits and pipes for underground utilities.
4. Mineral reservations and/or mineral interests as set out in the Public Records.
5. Any and all unrecorded agreements, contracts and leases, and rights of parties therein.
6. All leases, grants, exceptions or reservations of coal, lignite, oil, gas and other minerals, together with all rights, privileges, and immunities relating thereto, appearing in the Public Records whether listed or not.
7. Rights of parties in possession.

TO HAVE AND TO HOLD the Property together with all and singular the rights and appurtenances thereto in any way belonging unto Grantee, Grantee's successors and assigns forever. This conveyance is made without any warranties, express or implied, and the Property is conveyed to Grantee in an "AS IS" condition, with all faults.

AS A MATERIAL PART OF THE CONSIDERATION FOR THIS DEED, GRANTEE AGREES THAT GRANTEE IS TAKING THE PROPERTY AS IS, WITH ALL FAULTS, AND AS PART OF GRANTEE'S ACCEPTANCE OF TITLE WITH ANY AND ALL LATENT AND PATENT DEFECTS, AND THAT THERE ARE NO WARRANTIES BY GRANTOR THAT THE PROPERTY HAS A PARTICULAR FINANCIAL VALUE OR IS FIT FOR ANY PARTICULAR PURPOSE. GRANTEE ACKNOWLEDGES AND STIPULATES THAT GRANTEE IS NOT RELYING ON ANY REPRESENTATION, STATEMENT, OR OTHER ASSERTION WITH RESPECT TO THE PROPERTY CONDITION BUT IS RELYING ON GRANTEE'S EXAMINATION OF THE PROPERTY. GRANTEE TAKES THE PROPERTY WITH THE EXPRESS UNDERSTANDING AND STIPULATION THAT THERE ARE NO EXPRESS OR IMPLIED WARRANTIES OF ANY KIND.

IN WITNESS WHEREOF, this instrument is executed on this the _____ day of _____, 2013.

ATTEST:


CITY OF EL PASO

Richarda Duffy Momsen
City Clerk

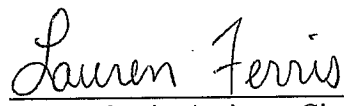
Joyce Wilson, City Manager

APPROVED AS TO CONTENT:

APPROVED AS TO FORM:



Mathew McElroy, Director
City Development Department



Lauren Ferris, Assistant City Attorney

(Acknowledgement on following page)

ACKNOWLEDGEMENT

STATE OF TEXAS

COUNTY OF EL PASO

Before me on this day personally appeared Joyce Wilson, as City Manager of the City of El Paso, a municipal corporation, subscribed to the foregoing instrument and acknowledged to me that she executed the instrument by proper authority, for the purposes and consideration expressed therein and in the capacity stated in the instrument.

Given under my hand and seal of office this _____ day of _____, 2013.

NOTARY PUBLIC, STATE OF TEXAS

(Print or Stamp Name of Notary)

My commission expires: _____

AFTER FILING RETURN TO:

**Carlos and Maria Hernandez
3911 Fort Blvd.
El Paso, TX 79930**

With copy to:

**City Development Department
Planning Division
PO Box 1890
El Paso, TX 79950-1890**



BROCK & BUSTILLOS INC.
CONSULTING CIVIL ENGINEERS
LAND SURVEYORS

ROMAN BUSTILLOS, P.E.
President

RANDY P. BROCK, P.E.
Executive Vice President

SERGIO J. ADAME, P.E.
Vice President - Engineering

AARON ALVARADO, R.P.L.S.
Vice President - Surveying

ISAAC CAMACHO, R.P.L.S.
Survey Manager

TBPE Reg. No. F-737
TBPLS Reg. No. 101314-00

EXHIBIT A

METES AND BOUNDS DESCRIPTION *"Encroachment Area at 2800 Nashville Avenue"*

A 0.0222 acre parcel situate within the corporate limits of the City of El Paso, El Paso County, Texas as a portion of the Elm Street right-of-way adjacent to Block 126, Highland Park Addition, as recorded in Book 1, Page 54 of the Plat Records of El Paso County, Texas, and being more particularly described by metes and bounds as follows.

COMMENCING for reference at a railroad spike found at the intersection of the monument line of Memphis Avenue (70.00 feet wide) and the monument line of Elm Street (70.00 feet wide), said monument line intersection located 10.00 feet (9.00 feet ~ measured) north and 10.00 feet east of the centerline intersection of Frankfort Avenue and Elm Street; **WHENCE**, a city monument found at the intersection of the monument line of Sacramento Avenue (70.00 feet wide) and the monument line of Elm Street, said monument line intersection located 10.00 feet (9.00 feet ~ measured) north and 10.00 feet east of the centerline intersection of Sacramento Avenue and Elm Street, bears North 00°00'00" East, a distance of 990.00 feet (990.09 feet ~ measured); **THENCE**, leaving the monument line of Memphis Avenue and following the monument line of Elm Street, North 00°00'00" East, a distance of 216.00 feet (216.68 feet ~ measured); **THENCE**, leaving the monument line of Elm Street, North 90°00'00" East, a distance of 11.00 feet to a chiseled "X" set in concrete for the **POINT OF BEGINNING** of the parcel herein described;

THENCE, North 00°00'00" East, a distance of 69.00 feet to a chiseled "X" in concrete set for the northwest corner of the parcel herein described;

THENCE, North 90°00'00" East, a distance of 14.00 feet to a chiseled "X" in concrete set on the west boundary of Lot 32, Block 126, Highland Park Addition for the northeast corner of the parcel herein described, identical to the northwest corner of said Lot 32;

THENCE, leaving the northwest corner of said Lot 32 and following the west boundary line of said Lot 32, South 00°00'00" West, a distance of 69.00 feet to a 1/2 inch rebar with survey cap No. "TX 5337" set for the southeast corner of the parcel herein described;

THENCE, leaving the west boundary line of said Lot 32, North 90°00'00" West, a distance of 14.00 feet to the **POINT OF BEGINNING**;

Said parcel containing 0.0222 acres (966.0 square feet), more or less, and being subject to all easements of record.

Isaac Camacho
Isaac Camacho, TX R.P.L.S. No. 5337
Date: February 11, 2013
05100-047 2800 Nashville Desc

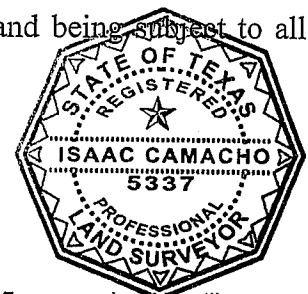
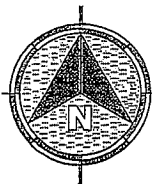


EXHIBIT B



GRAPHIC SCALE

0 20'
(IN FEET)
1 inch = 20 FT.

LEGEND

PROJECT BOUNDARY	---
LOT LINE	---
RIGHT-OF-WAY LINE	---
CENTERLINE OF RIGHT-OF-WAY	---
MONUMENT LINE	---
CHAIN-LINK FENCE	---
WATER METER	⊙
WATER VALVE	⊙
GAS METER	⊙
TREE	⊙
SHRUB	⊙
CONCRETE AREA	▨
EXISTING BUILDING	▨
MEASURED BEARING & DISTANCE	(M)
RECORD BEARING & DISTANCE	(R)
OFFICIAL PUBLIC RECORDS OF REAL PROPERTY OF EL PASO COUNTY, TX.	O.P.R.P.
LOT NUMBER	32
BLOCK NUMBER	126
FOUND CITY MONUMENT	⊙
SET 1/2" REBAR WITH SURVEY CAP NO. "TX 5337"	⊙

LINE TABLE		
LINE	BEARING	LENGTH
L1	N90°00'00"E	11.00'
L2	N90°00'00"E	14.00'
L3	S90°00'00"W	14.00'

REFERENCE NOTES

1. BASIS OF BEARING IS THE MONUMENT LINE OF ELM STREET (70.00' R.O.W.) IN HIGHLAND PARK ADDITION, FILED IN BOOK 1, PAGE 54 OF THE PLAT RECORDS OF EL PASO COUNTY, TEXAS.
2. LEGAL DESCRIPTION OF 2800 NASHVILLE IS THE NORTH 69 FEET OF LOT 32 & THE NORTH 69 FEET OF THE WEST HALF OF LOT 31, BLOCK 126, HIGHLAND PARK ADDITION.

CERTIFICATION

I HEREBY CERTIFY THAT THIS BOUNDARY SURVEY IS BASED ON AN ACTUAL SURVEY PERFORMED ON THE GROUND BY ME OR UNDER MY SUPERVISION AND THAT THE INFORMATION CONTAINED HEREON IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF.

Isaac Camacho 02/11/2013
ISAAC CAMACHO, TX, R.P.L.S. NO. 5337



FILE NO: 05100-047

BOUNDARY & IMPROVEMENT SURVEY

DRAWN BY: J.M. CHECKED BY: I.C. DATE: 02-11-2013 SCALE: 1" = 20'

A PORTION OF ELM STREET RIGHT-OF-WAY, ADJACENT TO
BLOCK 126, HIGHLAND PARK ADDITION,
CITY OF EL PASO, EL PASO COUNTY, TEXAS.

BROCK & BUSTILLOS INC.
CONSULTING CIVIL ENGINEERS
LAND SURVEYORS
TBP REG. NO. F-737

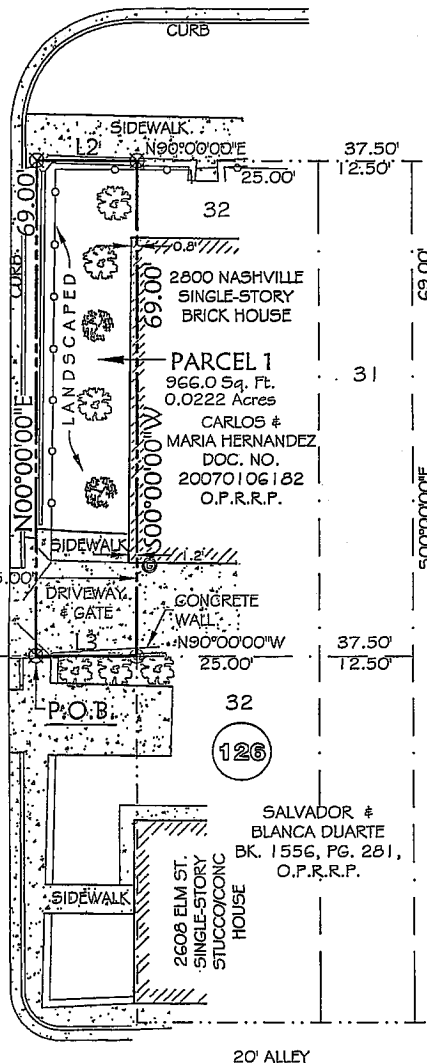
417 EXECUTIVE CENTER - EL PASO, TX 79902 - PH (915) 542-4900
FAX (915) 542-2867 - WWW.BROCKBUSTILLOS.COM

SACRAMENTO AVENUE
(70' R.O.W.)

NASHVILLE AVENUE
(70' R.O.W.)

ELM STREET
(70' R.O.W.)

MEMPHIS AVENUE
(70' R.O.W.)



Dedicated to Outstanding Customer Service for a Better Community

SERVICE SOLUTIONS SUCCESS

MEMORANDUM



DATE: July 22, 2013
TO: The Honorable Mayor and City Council
Joyce A. Wilson, City Manager
FROM: Nelson Ortiz, Planner
SUBJECT: SURW13-00002

The City Plan Commission (CPC), on March 21, 2013, voted to approve the Elm Street Vacation.

The CPC determined the vacation protects the best interest, health, safety and welfare of the public in general; and the proposed use is compatible with adjacent land uses; and the vacation will have no negative effect on the natural environment, social economic conditions, and property values in the vicinity and the city as a whole.

Mayor
Oscar Leeser

City Council

District 1
Ann Morgan Lilly

District 2
Larry Romero

District 3
Emma Acosta

District 4
Carl L. Robinson

District 5
Dr. Michiel R. Noe

District 6
Eddie Holguin Jr.

District 7
Lilia B. Limon

District 8
Cortney C. Niland

City Manager
Joyce A. Wilson



City of El Paso – City Plan Commission Staff Report

Case No: SURW13-00002 Elm Street Vacation
Application Type: Right-of-Way Vacation
CPC Hearing Date: March 21, 2013

Staff Planner: Nelson Ortiz, 915-541-4931, OrtizNX@elpasotexas.gov
Location: 2800 Nashville Street
Acreage: 0.0222 Acre
Rep District: 2

Existing Use: Unimproved right-of-way
Existing Zoning: R-5 (Residential)

Property Owner: City of El Paso
Applicant: Maria Hernandez
Representative: City of El Paso

SURROUNDING ZONING AND LAND USE

North: R-5 (Residential)/ Single-family Development
South: R-4 (Residential)/ Single-family Development
East: R-5 (Apartment)/ Single-family Development
West: R-5 (Residential)/ Single-family Development

THE PLAN FOR EL PASO DESIGNATION: G-2 Traditional Neighborhood (Walkable)

APPLICATION DESCRIPTION

This is a city-initiated application to vacate a 14' wide portion of an unimproved portion of Elm Street right-of-way. All properties (4) abutting the unimproved right-of-way have improvements that encroach into the right-of-way. The properties are between Nashville and Memphis and abut the easterly Elm Street right-of-way line. Staff will be applying the Resolution adopted by City Council which allows the City to convey property for 10% of the appraised market value as this request meets the criteria.

NEIGHBORHOOD INPUT

Notice of a Public Hearing was mailed to all property owners within 300 feet of the subject property on March 5, 2013. The Planning Division has not received any letters or phone calls in support or opposition of the vacation. Staff has received three phone calls inquiring about the details of the project.

DEVELOPMENT COORDINATING COMMITTEE

The Development Coordinating Committee recommends **approval** of Elm Street Vacations subject to the following conditions and requirements:

Planning Division Recommendation:

Approval.

City Development-Land Development:

We have reviewed subject plan recommend Approval; No objections.

Planning - Transportation:

No objections.

El Paso Water Utilities - PSB:

We have reviewed the above referenced and provide the following comments:

EPWU-PSB Comments

Water

Along Elm Street between Nashville Avenue and Memphis Avenue there is an existing six (6) inch diameter water main located at approximately 20 feet west of the easternmost right-of-way line of Elm Street.

Sanitary Sewer

Along the 20-foot wide Alley located between Nashville Avenue and Memphis Avenue there is an existing eight (8) inch diameter sanitary sewer main located along the center of the Alley. This main dead-ends at approximately 10 feet east of the easternmost right-of-way line of Elm Street.

General

EPWU-PSB does not object to this request

Parks and Recreation:

We have reviewed 2800 Nashville Street, a Street vacation survey map and offer "No" objections to this proposed street vacation request.

El Paso Fire Department:

No comments received.

El Paso Electric Company:

El Paso Electric has no objection to the vacation of the street r-o-w of Elm Street as described on the 4 surveys by Brock & Bustillos, Inc. EPE has no facilities in the area to be vacated. Our facilities are in the alley.

Sun Metro:

No comments received.

911:

No comments received.

Texas Gas Company:

No comments received.

El Paso Independent School District:

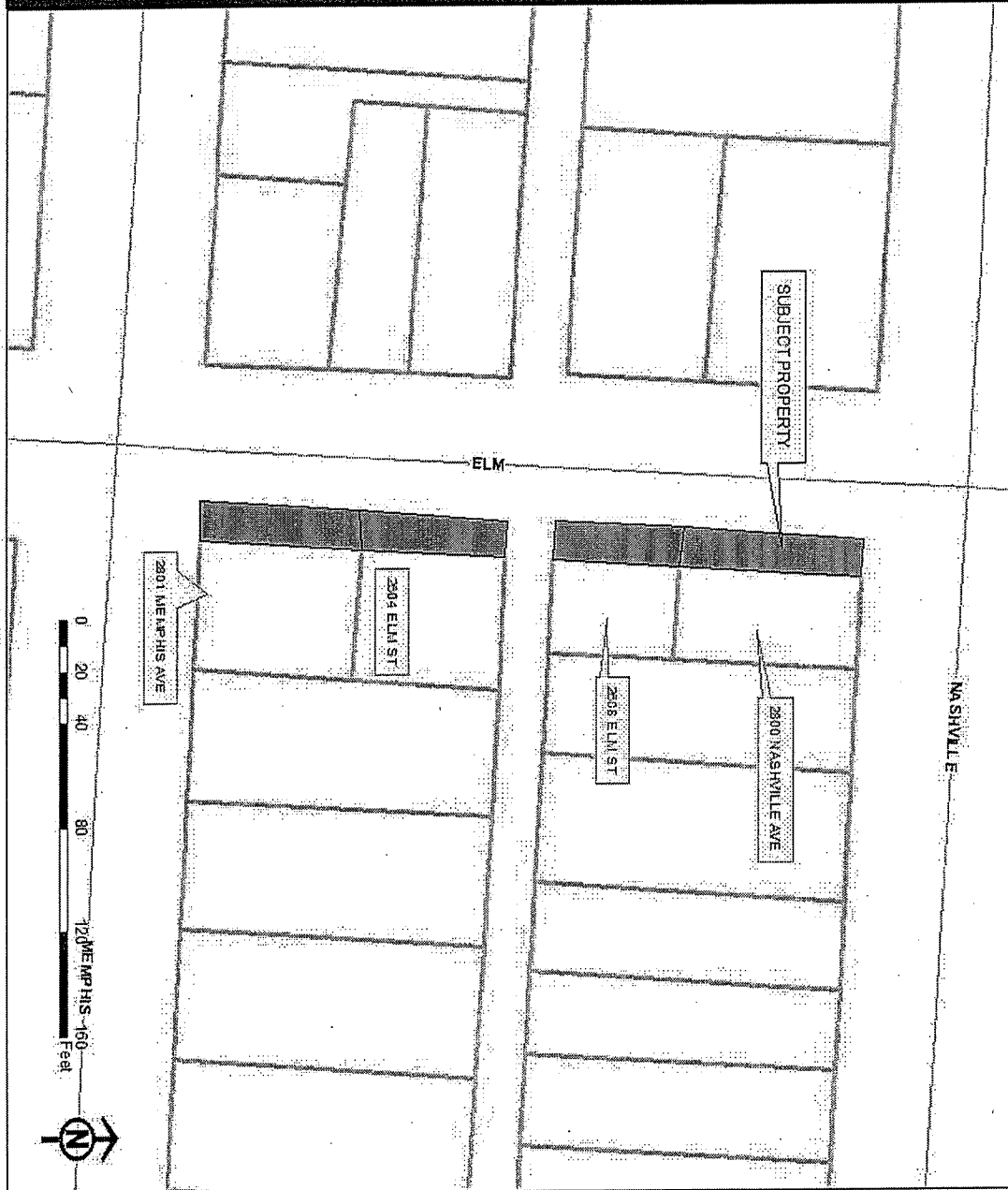
No comments received.

Attachments

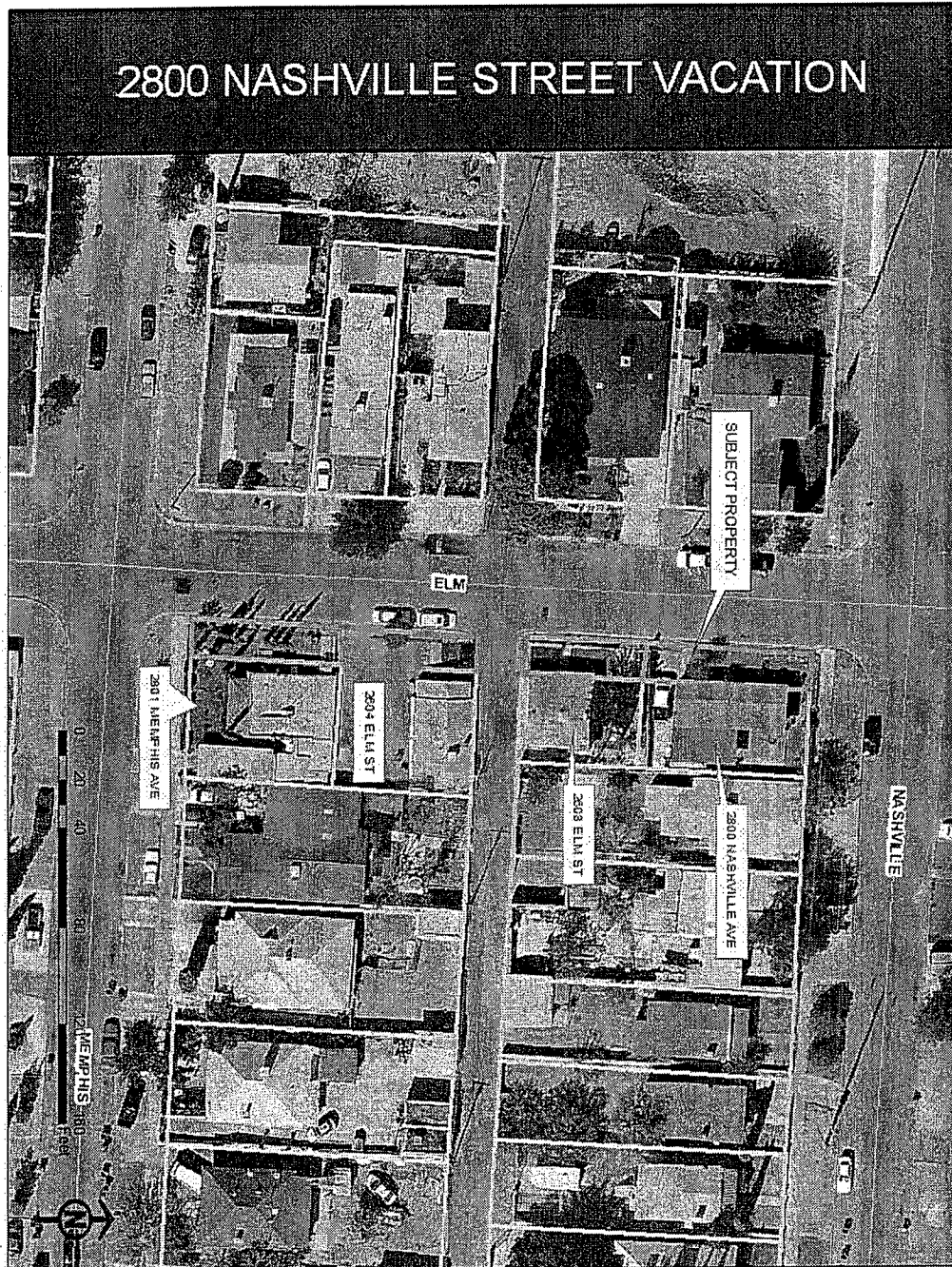
1. Location map
2. Aerial map
3. Survey
4. Application

ATTACHMENT 1

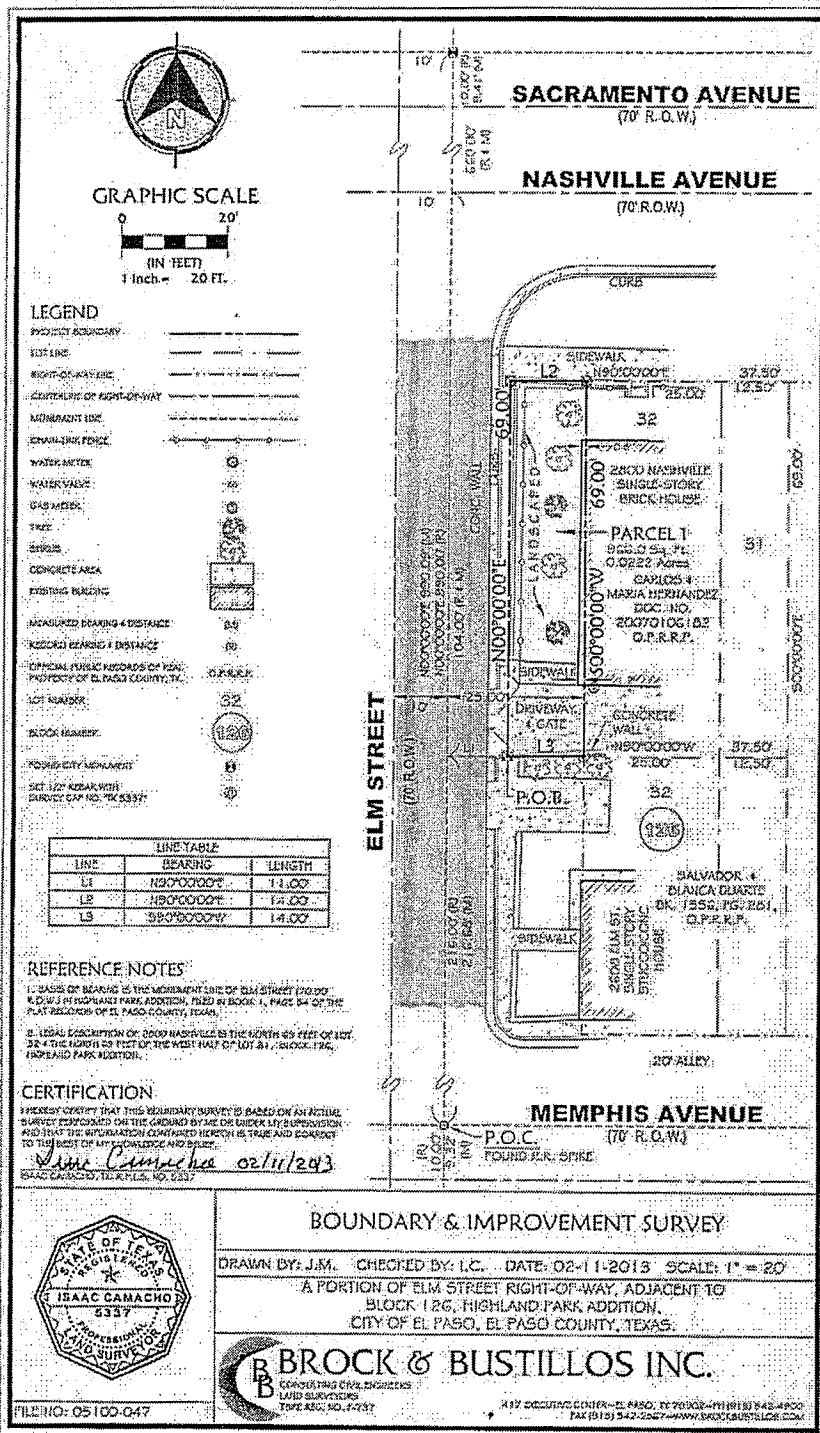
2800 NASHVILLE STREET VACATION



ATTACHMENT 2



ATTACHMENT 3



ATTACHMENT 4



CITY OF EL PASO, TEXAS APPLICATION FOR VACATION PUBLIC EASEMENTS AND RIGHTS-OF-WAY

Date: Jan 7, 2013

File No. SURW13-00002

1. APPLICANTS NAME Maria Hernandez
ADDRESS 2800 Nashville ZIP CODE 79930 TELEPHONE 915-566-1343

2. Request is hereby made to vacate the following: (check one)

Street ☒ Alley ☐ Easement ☐ Other ☐

Street Name(s) Elm St Subdivision Name Third Amended Map of Highland Park Addition

Abutting Blocks _____ Abutting Lots _____

3. Reason for vacation request: FIX PROPERTY LINE ISSUE

4. Surface Improvements located in subject property to be vacated:
None ☐ Paving ☐ Curb & Gutter ☐ Power Lines/Poles ☐ Fences/Walls ☐ Structures ☐ Other ☐

5. Underground Improvements located in the existing rights-of-way:
None ☐ Telephone ☐ Electric ☐ Gas ☐ Water ☐ Sewer ☐ Storm Drain ☐ Other ☐

6. Future use of the vacated right-of-way:
Yards ☐ Parking ☐ Expand Building Area ☐ Replat with abutting Land ☐ Other ☐

7. Related Applications which are pending (give name or file number):
Zoning ☐ Board of Adjustment ☐ Subdivision ☐ Building Permits ☐ Other ☐

8. Signatures: All owners of properties which abut the property to be vacated must appear below with an adequate legal description of the properties they own (use additional paper if necessary).

Signature	Legal Description	Telephone
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

The undersigned Owner/Applicant/Agent understands that the processing of this Application will be handled in accordance with the procedure for Requesting Vacations and that no action on processing will be taken without payment of the non-refundable processing fee. It is further understood that acceptance of this application and fee in no way obligates the City to grant the Vacation. I/We further understand that the fee, if the Vacation is granted will be determined by the City of El Paso and a Certified or Cashier's Check must be presented before the request will be recommended for Council action.

The undersigned acknowledges that he or she is authorized to do so, and upon the City's request will provide evidence satisfactory to the City confirming these representations.

The granting of a vacation request shall not be construed to be a waiver of or an approval of any violation of any of the provisions of any applicable City ordinances.

CASHIER'S VALIDATION
FEE: \$966.00

OWNER SIGNATURE: Maria R. Hernandez
REPRESENTATIVE: _____

NOTE: SUBMITTAL OF AN APPLICATION DOES NOT CONSTITUTE ACCEPTANCE FOR PROCESSING UNTIL THE PLANNING DEPARTMENT REVIEWS THE APPLICATION FOR ACCURACY AND COMPLETENESS.